



3738  
JW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of: ) Before the Examiner:  
Neal E. Fearnott et al. ) Barrett, Thomas C.  
Serial No.: 10/068,212 )  
Filed: February 6, 2002 )  
TUBULAR GRAFT CONSTRUCT ) Our Ref.: 3433-338

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on

August 26, 2004

Date of Deposit

Kenneth A. Gandy

Name of Registered Representative

*Kenneth A. Gandy*

Signature

August 26, 2004

Date of Signature

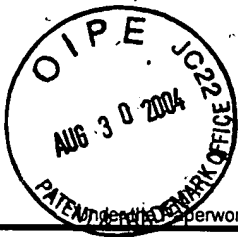
**RESPONSE TO OFFICE ACTION**  
**REGARDING NON-COMPLIANT AMENDMENT**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Communication dated May 28, 2004, please consider the following, which is a re-submission of the Amendment filed January 5, 2004, except including the requisite markings in the claims. Additionally, a request for a two-month extension of time up to and including August 28, 2004, is enclosed, along with the Credit Card Payment Form for payment of fees. Any additional necessary fees may be charged to Deposit Account No. 23-3030, but not to include any payment of issue fees.

AMENDMENT AFTER OFFICE COMMUNICATION  
Serial No. 10/068,212  
Group Art Unit 3738  
Attorney Docket No. 3433-338



003433-000338.KAG.299597WEMHH/SB/21 (6/04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB number.

|   |                        |                        |
|---|------------------------|------------------------|
| <b>TRANSMITTAL FORM</b><br><br>(to be used for all correspondence after initial filing) | Application Number     | 10/068,212             |
|   | Filing Date            | February 6, 2002       |
|   | First Named Inventor   | Neal E. Fearnot et al. |
|   | Art Unit               | 3738                   |
|   | Examiner Name          | Thomas C. Barrett      |
| Total Number of Pages in This Submission  | Attorney Docket Number | 3433-338               |

| ENCLOSURES (Check all that apply)   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input checked="" type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input checked="" type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/Incomplete Application<br><input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawings<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) <input type="text"/> | <input type="checkbox"/> After Allowance communication to Group<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input type="checkbox"/> Other Enclosure(s) (please identify below): |
| Remarks <input type="text"/>  |  |  |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT |  |
|--|--|
| Firm or individual name                    | Kenneth A. Gandy<br>Woodard, Emhardt, Moriarty, McNeft & Henry LLP |
| Signature                                  |  |
| Date                                       | August 26, 2004  |

| CERTIFICATE OF TRANSMISSION/MAILING  |                  |      |                 |
|--|------------------|------|-----------------|
| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below |                  |      |                 |
| Typed or printed name  | Kenneth A. Gandy |      |                 |
| Signature  |                  | Date | August 26, 2004 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

AUG 30 2004

003433-000338.KAG.299595:jWEMMH/SB/17 (12/03)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# FEE TRANSMITTAL FOR FY 2004

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

Total Amount of Payment (\$ 420)

## Complete if Known

Application Number 10/068,212  
 Filing Date February 6, 2002  
 First Named Inventor Neal E. Fearnot et al.  
 Group Art Unit 3738  
 Examiner Name Thomas C. Barrett  
 Attorney Docket Number 3433-338

## METHOD OF PAYMENT

☐ Check ☒ Credit card ☐ Money Order ☐ Other ☐ None
☐ Deposit Account:

Deposit Account Number 23-3030

Deposit Account Name Woodard, Emhardt, Moriarty, McNett &amp; Henry LLP

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments  
☒ Charge any additional fee(s) during the pendency of this application, excluding the payment of issue fees  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

| Large Fee Code    | Entity Fee (\$) | Small Fee Code | Entity Fee (\$) | Fee Description        | Fee Paid |
|-------------------|-----------------|----------------|-----------------|------------------------|----------|
| 1001              | 770             | 2001           | 385             | Utility Filing Fee     |          |
| 1002              | 340             | 2002           | 170             | Design Filing Fee      |          |
| 1003              | 530             | 2003           | 265             | Plant Filing Fee       |          |
| 1004              | 770             | 2004           | 385             | Reissue Filing Fee     |          |
| 1005              | 160             | 2005           | 80              | Provisional Filing Fee |          |
| SUBTOTAL (1) (\$) |                 |                |                 |                        |          |

## 2. EXTRA CLAIM FEES

| Total Claims              | Extra Claims | Fee From Below | Fee Paid |
|---------------------------|--------------|----------------|----------|
| -20** =                   |              | X              |          |
| Independent Claims -3** = |              | X              |          |
| Multiple Dependent        |              |                |          |

| Large Entity Fee Code | Fee (\$) | Small Entity Fee Code | Fee (\$) | Fee Description   |
|-----------------------|----------|-----------------------|----------|---|
| 1202                  | 18       | 2202                  | 9        | Claims in excess of 20                                    |
| 1201                  | 86       | 2201                  | 43       | Independent claims in excess of 3                         |
| 1203                  | 290      | 2203                  | 145      | Multiple dependent claim, if not paid                     |
| 1204                  | 86       | 2204                  | 43       | **Reissue independent claims over original patent         |
| 1205                  | 18       | 2205                  | 9        | **Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2) (\$)

Other Fee (specify)

\* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 420)

## SUBMITTED BY

Name (Print/Type)

Kenneth A. Gandy

Registration No. (Attorney/Agent)

33,386

Complete (if applicable)

Telephone

(317) 634-3456

Signature

Date

August 26, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038. This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.